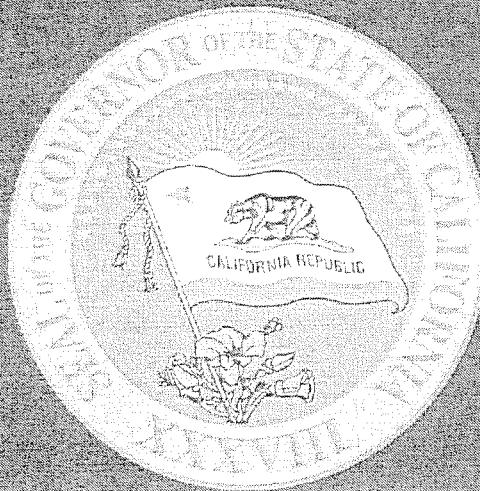


Exhibit 10

Governor Arnold Schwarzenegger
State of California

Governor's Blue Ribbon Fire Commission



See
Pg. 13

Report to the Governor

Senator William Campbell, (Retired)
Chairman

LOCAL BUILDING, PLANNING AND LAND USE REGULATIONS; BRUSH
CLEARANCE AND FUEL MODIFICATION

FINDING 1

The protection of life and property from wildfire cannot simply rely on the availability of firefighting resources. Until the removal of thousands of acres of dead bark beetle infested trees and sound forest stewardship is achieved, Southern California and other forested areas of the state will continue to have hazardous standing fuel just waiting to become the next conflagration. Fuel reduction and fuel modification programs are essential to reducing the potential threat of major WUI fires.

*"Fire has no respect for boundaries. The only way to effectively protect our communities is to universally improve our ability to construct fire safe communities. We believe this can be done with the proper balance so that native habitats are protected, as well as other sensitive environmental concerns, while simultaneously thinning brush so that it provides the correct safety to structures."
— P. Lamont Ewell,
San Diego Assistant
City Manager*

FINDING 2

Community involvement is essential to helping implement necessary fire prevention and fire safety programs at the local level.

FINDING 3

Currently, appropriate minimum building standards and fire safety requirements are neither mandated nor consistently enforced in all communities in High and Very High Fire Hazard Severity Zones.

FINDING 4

The insurance industry must be an intimate and integral part of the solution to addressing the WUI problem.

FINDING 5

Vegetation has not been adequately managed to mitigate wildfire risks. The most destructive, costly and dangerous wildfires occurred in older, dense vegetation burning under extreme conditions.

*"We estimate that there will be around 1.9 million claims from these fires and it will probably reach an estimated total of over \$2.03 billion."
— Jerry Davies,
Director of
Communications,
Personal Insurance
Federation of
California*

FINDING 6

Most structural losses occurred where homes had little or no vegetation clearance or were built using combustible building materials, and were thus vulnerable to wildfires.

Exhibit 11



FOR IMMEDIATE RELEASE
October 24, 2006

FACT SHEET

ADDITIONAL FIRE-RESCUE EQUIPMENT AND BUILDING CODE CHANGES ENHANCE SAFETY OF SAN DIEGANS THREE YEARS AFTER 2003 FIRESTORM

On the three-year anniversary of the Cedar Fire, enhanced building codes enacted by the City's Development Services Department, and additional brush fire equipment and technology acquired by its Fire-Rescue Department, have helped to better position San Diego to prevent and fight future wild fires.

History:

On October 25, 2003, San Diego County was ravaged by the now famous firestorms that burned for nearly four days. Three separate fires burned that week: the Paradise Fire; the Otay Fire; and the largest of the fires, the Cedar Fire. Of the three, the Cedar Fire is the only one that burned within the City of San Diego.

Scope of the Firestorms of 2003

- Total Acres Burned : 376,237 in the County of San Diego; 28,676 in the City of San Diego
- Lives lost: 16 people in the County, no one died as a result of the fires in the City
- Structures lost: 2,095 in the County, 335 in the City of San Diego
- Property value lost: \$450 million in the County, \$204 million in the City of San Diego
- City Fire resources committed: 500-plus personnel daily, over 3 days

Three years later, most of the homes located in the City of San Diego that were destroyed in the fires have been rebuilt and new building codes have been enacted.

A total of 317 houses burned in the City of San Diego—312 in Scripps Ranch, and 5 in Tierrasanta.

Since that time most of the homes have been rebuilt:

Number of building permits applied for:	311
Number of permits issued:	310
Number of permits pending (not issued):	1
Number of homes built and occupied (completed):	282
Number of homes under construction (inspection phase):	28
Number of burned homes with no permit submittal	6

The City's Response to the Cedar Fire

New Building Codes Enacted:

A number of changes were made to the City's building codes as a result of lessons learned during the Cedar Fire. The City's Development Services Department worked closely with architects and building engineers to develop new standards for safer homes in areas subject to wildfires and implemented emergency regulatory revisions to the Building Code. The revisions include:

- 1) Amending the Municipal Code to require Class "A" roofing assembly for all new buildings, and throughout the roof of all existing buildings where more than 25 percent of the total roof area is replaced over a 12-month period.
- 2) Amending the Municipal Code to prohibit the use of wood shake or wood shingle roof coverings on all new roofs, and to require the removal and replacement of all wood roof coverings within 25 years. The entire roof of all existing buildings covered with wood roof covering is required to be replaced with a Class "A" roofing including no wood coverings where more than 25 percent of the total roof area is replaced over a 12-month period.
- 3) Changing the Municipal Code to now require additional fire resistant building materials and fire safety systems for all buildings subjected to fire hazards adjacent to high fire hazard areas.
- 4) Adding new building and brush management regulations to the Municipal Code. Brush management is required to reduce fire hazards around structures by providing an effective fire break between all structures and contiguous areas of native or naturalized vegetation. The new regulations provide for a uniform 100 ft deep defensible space.

This brush management ordinance was approved for areas outside of the Coastal Zone. Regulations for the Coastal Zone are pending Coastal Commission certification targeted for November 2006.

In addition, the Development Services Department worked closely with three homeowners' associations in the area to develop new allowable standards for the units which replaced those lost in the fire. Their collaboration resulted in a community with a much more diverse unit type and architecture.

"In assessing how the City could best address the problems presented by the Cedar Fire, our goal has been two fold: First, we want to do whatever we can to prevent a fire of that magnitude from happening again; and second, we want to ensure that our fire fighters, rescue teams and citizen volunteers are given the best equipment possible to fight brush fires when they occur. I believe we've taken major steps toward achieving this goal."

-- Mayor Jerry Sanders

Fire-Rescue Equipment and Resources Added:

Helicopter Program:

- Established a permanent City multi-mission helicopter program
- Acquired and installed night vision equipment and trained crew members and pilots. Copter 1 can perform the same missions at night that it can during the day.

Fire and Rescue Equipment:

- Fire-Rescue added 16 new apparatus including engines, trucks, brush engines, haz-mat, heavy rescue, and light & air
- Additional equipment acquired specifically for fighting brush fires includes:
 - Web gear (harnesses for carrying equipment)
 - RIC bags (rescue equipment)
 - Wildland hose packs (backpacks that allow firefighters to carry hoses long distances)
 - Increased shelf stock of personal protective equipment (brush and structure gear)
- Acquisition and installation of Mobile Data Computers (MDC) on all engines and trucks. The MDCs provide electronic computerized information to speed responses in serving public. MCDs provide responding firefighters and ambulance crews with:
 - real time information about the incident provided by dispatchers
 - maps and instantaneous driving directions
 - information about the area, business or structures that are affected by the emergency
- Enhanced radio and 911 communications equipment and systems
- Increased outfitting of Ready Reserve pumper fleet – backup fleet of equipment (13 total).

Enhanced Public Safety and Response Programs:

- Implemented community outreach program providing fire safety information and other public education information to community groups (total of 35 presentations post Cedar Fire).
- Secured grant funding and implemented Community Emergency Response Team (CERT) program. 542 citizens trained as CERT volunteers and 18 teams established throughout city.
- Completed response plans—called I-Zones—for 23 targeted areas of the city considered to be high fire hazard canyon areas spanning more than 900 linear miles. These detailed plans contain the geography of the areas; access and evacuation routes; staging areas; as well as the types of vegetation, structures, businesses and dangers in the specific area where the emergency is located.
- Initiated a Damage Assessment Team program.

What can the public do to help?

Preparation is the best prevention.

There are plenty of things that residents can do to help prevent fires around their homes:

- Make sure your fire and smoke alarms work properly.
- Plan an evacuation route—not only out of your home, but also out of your neighborhood.
 - Immediately evacuate if told to do so by police or fire personnel.
 - Don't wait to be told to leave if a fire or other disaster is threatening your home.
- Be diligent about brush and weed abatement.
- Prune and maintain plants and trees on your property.
- Clean gutters and roofs of leaves and debris.
- Install fireproof screens on your chimney outlet.
- Keep woodpiles at least 30 feet away from any structures.
- Do not dump grass or leaves into canyons.

Exhibit 12



FOR IMMEDIATE RELEASE

May 8, 2007

FACT SHEET

FY08 Budget

SANDERS ADDS \$5.32 MILLION TO FIRE-RESCUE DEPARTMENT BUDGET

*FY08 Budget Enhancements Will Help Address Facilities,
Fleet and Equipment Needs*

MAYOR URGES SAN DIEGANS TO BE VIGILANT IN CLEARING AWAY BRUSH FROM RESIDENCES AND BUSINESSES

Driest Conditions in 90 Years Raise Concerns for Firefighters Statewide

Mayor Jerry Sanders announced today that as part of the Fire-Rescue Department's proposed \$180 million FY08 budget, \$5.32 million represents enhancements to help address the City's ongoing fire, rescue and life-safety needs.

The Mayor also urged San Diegans to be ever vigilant in clearing brush away from residences and businesses. California is experiencing its driest conditions in 90 years, prompting concern from fire officials across the state about a potential increase in fire danger.

San Diego has already experienced six vegetation fires this year during cold and foggy conditions. As the City heads into warmer, dryer weather, the chance for canyon and wild fires increases. Property owners can help decrease the risk of fire by effectively clearing brush that exists within 100 feet of structures. A copy of the City's Brush Management Guide appears on pages 3-4 of this Fact Sheet.

The Mayor's budgetary enhancements underscore his commitment to keep public safety a top priority even during difficult financial times. Elements of the enhancements include:

- **Fleet replacement and additions for the Fire Rescue Department (\$1.96 million).** Long overdue, the Mayor is focusing attention on replacing outdated fire vehicles, including the replacement of two unreliable and substandard water tenders that are over 26 years old (\$500,000). Replacement will ensure an adequate and timely supply of water when hydrants

are not available. Also being replaced are: the department's only front-line emergency response foam apparatus (\$600,000), 15 emergency response-capable staff vehicles (\$491,000), five aged mid-size emergency response capable staff vehicles (\$74,650), two Battalion Chief vehicles (\$130,000), one aged and repair-prone callback response vehicle (\$40,000), three 2-wheel-drive support function pickup trucks (\$58,000); and the addition of five midsize sedans (\$65,190).

- **Fire Department Equipment Enhancements (\$1.07 million).** For years, the Fire Rescue Department has gone without critical equipment. While acknowledging that this will not address or solve all of the equipment needs, the Mayor believes that this is a step in the right direction. Chief among the enhancements are full funding for the helicopter/hoist lease-purchase payments (\$341,100), three compressed breathing air refill units to be installed in fire stations (\$169,682), 70 complete turnout sets (fire retardant coats and pants) (\$140,000), the replacement of outdated 800MHz mobile radios on all apparatus (\$83,262), and the repair and replacement of vehicular exhaust and extraction systems on vehicles as needed (\$75,000).
- **Partial-year staffing for the new, developer built Fire Station 47 in Pacific Highlands (\$1.17 million).** Set to open in late fall 2007, this fire station will service communities in the rapidly growing Carmel Valley area. It is anticipated that the addition of this station will dramatically reduce fire and life safety service response times in this region.

SAN DIEGO FIRE RESCUE DEPARTMENT

ITEM CATEGORY	BUDGET ENHANCEMENT AMOUNT
Partial Year Staffing for Newly Built Fire Station 47	\$1.170 million
Fleet replacement and additions	\$1.96 million
Equipment Enhancements	\$1.07 million
JPA HIRT Program	\$143,900
Fire Personnel Training	\$66,980
Information Technology Needs	\$35,500
Lifeguard Staffing	\$291,091
Lifeguard Training	\$587,000
TOTAL ENHANCEMENTS	\$5.32 million

City of San Diego Brush Management Regulations

See also Bulletin #2:
Use of Goats for
Brush Management

BULLETIN #1: BRUSH MANAGEMENT GUIDE For Private Property



February 2006

The City of San Diego has over 900 linear miles of urban wildland interface, where the back yards of homes meet the natural vegetation in canyons. Years of drought have increased the flammability of this vegetation. During certain times of the year, native vegetation can pose a wildfire risk and requires proper management to prevent future tragedies. This Bulletin describes actions you and your family should take to reduce your chances of being affected if a wildfire ever occurs near you.

SAN DIEGO'S UNIQUE ENVIRONMENT

San Diego's semi-arid natural environment contains low-growing brush called *coastal sage scrub* or *chaparral*, which is home to many rare and endangered plants and animals. In fact, San Diego has more sensitive species than anywhere in the continental United States. Fire is an integral part of the ecology of this environment; the vegetation needs periodic burning to regenerate. *Fire becomes a potential problem where there are homes located next to the native vegetation.* But, you can create a *defensible space* around your home that can slow the fire down, giving firefighters crucial time and space to protect your home.

CREATING "DEFENSIBLE SPACE"

Defensible Space is the landscape between your house and the potential fuel source (natural brush) that it is your responsibility as a homeowner to maintain to reduce fire risk. The City's Municipal Code* regulates brush management and creates two *Brush Management Zones* with different requirements. The Code was amended in October 2005 to make these Zones total 100 feet of defensible space from the structure throughout the City. *Although these amendments do not apply in the Coastal Overlay Zone until adopted by the Coastal Commission (Spring 2006), the Fire Chief recommends voluntary compliance.*

Brush Management Zone 1 is typically 35 feet from the structure (25-35 feet in the Coastal Zone, until The Coastal Commission adopts changes), on the flatter part of the property next to your house.

ZONE 1:

- ✓ Must be irrigated or watered regularly
- ✓ Must consist mostly of ornamental vegetation like lawns, low-growing shrubs, some trees, with not more than 10% native or naturalized vegetation.
- ✓ Trees and large shrubs must be pruned away from structures and roofs.
- ✓ Any wooden structures in Zones 1 and 2 (such as decks, or fences) not having a 1-hour fire resistance rating or built of combustible materials, must be removed.
- ✓ Irrigation from Zone 1 must not run onto Zone 2 (it encourages weed growth).

Brush Management Zone 2 is the remaining 65 feet from your structure (20 - 50 feet in the Coastal Zone, until the Coastal Commission adopts changes), and is usually comprised of natural vegetation.

ZONE 2:

- ✓ Can have NO permanent irrigation.
- ✓ Must be *thinned and pruned* regularly to reduce vegetation by 50%, without harming native plants, soil or habitats, as described on the reverse side of this Bulletin.

NOTE: Brush management is not allowed in coastal sage scrub during the California gnatcatcher nesting season, March 1 through August 15. This small bird only lives in coastal sage scrub and is listed as a threatened species by the federal government. Any harm to this bird could result in fines and penalties.

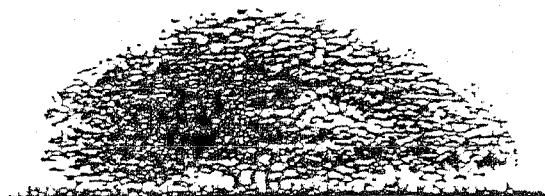
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HOW TO THIN AND PRUNE BRUSH IN ZONE 2

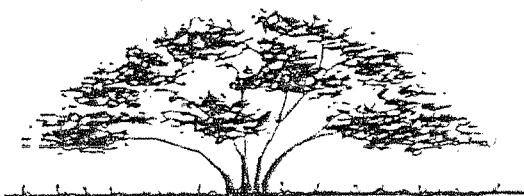
Step 1: Removeas much of the dead wood as you can.

Step 2: Prunetall vegetation like chaparral by cutting and shaping larger plants into “umbrellas.” This means pruning away the lower branches—about half—of plants over 2 feet high to create umbrella-shaped canopies. If you can, it’s a good idea to prune the lower branches of all the larger plants. This allows you to see and deal with what is growing underneath. Do not prune the tops of plants, just the lower branches. This keeps the plant healthy, and the shade from the plant canopy reduces weed and plant growth underneath. In vegetation that is less tall, like coastal sage scrub, you may not need to do Step 2.

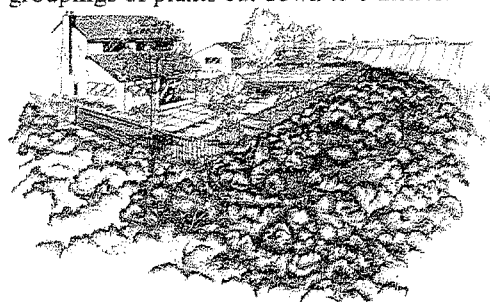
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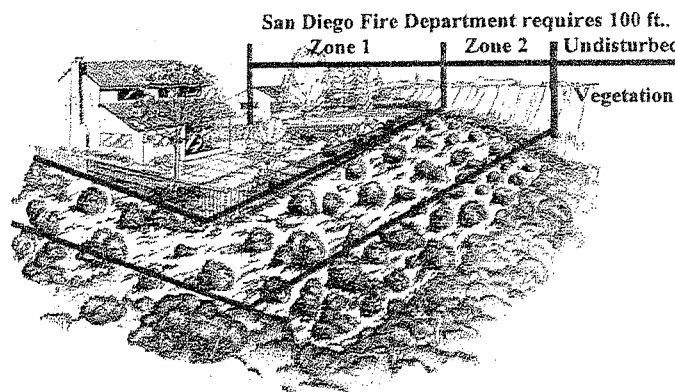
- AFTER -



Step 3: Thinthe entire Zone 2 area. This means cutting down no more than 50% of the plants over 2 feet high to a height of 6 inches, and may include some of the plants you pruned in Step Two. Don’t go any lower than 6 inches so the roots remain to control soil erosion. The goal is to create a “mosaic” or more natural look, as shown below, so do your cutting in a “staggered” pattern. Leave uncut plant groupings of 400 square feet—that’s a 20 x 20-foot area, or an area that can be encircled by an 80-foot rope—separated by groupings of plants cut down to 6 inches.



Before Brush Management



After Pruning and Thinning

Step 4: Disposeof the cuttings and dead wood by either hauling it to a landfill; or, by chipping/mulching it on-site and spreading it out in the Zone 2 area to a depth of not more than 6 inches.

Step 5: Prune annuallybecause plants will grow back. You can also “nip it in the bud” by rubbing out the buds on plants in the spring to keep from having to prune and thin as often.

Note: See *Bulletin #2: Use of Goats for Brush Management*, for an alternative way to thin brush.

Additional Information

- Brush/Weed Abatement; use of goats: City of San Diego Fire-Rescue Department (619) 533-4444.
- Property restrictions (easements, permits, deed or title): County Recorder (619) 237-0502.
- Obtaining permits for brush management on private property with restrictions: City of San Diego Development Services Department (619) 446-5000.
- Brush Management on City-owned open space land: City of San Diego Park and Recreation Department, Brush Management Section (619) 525-8607.

*Authority: *City of San Diego Municipal Code Chapter 14, Article 2, Division 4, Sections 142.0402, 142.04030, 142.0412.*

Revised 02/10/06 (San Diego Fire-Rescue)

Exhibit 13

INTERIM REPORT NO. 20

**KPBS ABROGATED ITS DUTY TO MAINTAIN
OBJECTIVITY AND BALANCE IN ITS LOCAL PUBLIC
AFFAIRS TELEVISION PROGRAMMING BY
CANCELLING THE *FULL FOCUS* PROGRAM**

**REPORT OF THE
SAN DIEGO CITY ATTORNEY**

MICHAEL J. AGUIRRE

**OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO**

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3 OCTOBER 2007

I. INTRODUCTION

On 1 August 2007 San Diego public broadcasting station KPBS announced that it was canceling the news and public affairs program *Full Focus*. After the announcement, San Diego City Attorney Michael Aguirre was contacted by a San Diego citizen who had contributed to KPBS and was concerned that, due to the cancellation of *Full Focus*, the station was failing to fulfill its requirements of objectivity and balance as a member station of the Public Broadcasting System ("PBS"). In response, the City Attorney sought station records under the California Public Records Act. This report examines the public interest issues raised by the *Full Focus* cancellation.¹

A. HISTORY OF KPBS

KPBS is a broadcast station organized and owned by San Diego State University. The station broadcasts on the radio using the call sign KPBS-FM and on television using the call sign KPBS-TV. KPBS-TV started operations in 1967. The television station originally was licensed as KEBS—the call sign was changed to KPBS in 1970. KPBS-FM began broadcasting in 1960; it initially also used the call sign KEBS.

The Federal Communications Commission ("FCC") licenses radio and television stations. Licenses are awarded for eight-year periods. The FCC renewed the license for KPBS-TV on 30 November 2006. The license will expire (unless renewed) in 2014.²

KPBS receives financial support through contributions from members of the public, including individuals and companies.³ It is eligible to receive grants from the

¹ This report is based, in part, on public records released by KPBS and San Diego State University as a result of public records requests made by the Office of the City Attorney on 24 August 2007, 29 August 2007 and 11 September 2007. See Exhibit 1 for copies of the requests.

² See station information at the FCC's website: http://fjallfoss.fcc.gov/cgi-bin/ws.exe/prod/cdbs/pubacc/prod/sta_det.pl?Facility_id=6124

Corporation for Public Broadcasting (as described more fully in Section IV of this report). KPBS is a PBS member station. PBS member stations are America's public television stations.

B. PBS EDITORIAL STANDARDS AND POLICIES

PBS is a private, nonprofit corporation that was created in 1969. It has 168 noncommercial, educational licensees that operate 355 member stations.⁴ It promulgates a set of "Editorial Standards and Policies." PBS adopted its most recent "Editorial Standards and Policies" in 2005.⁵ Those policies call for content to be objective and balanced. Specifically, the policies state:

PBS seeks to present, over time, content that addresses a broad range of subjects from a variety of viewpoints. PBS may, however, choose to consider not only the extent to which the content contributes to balance overall, but also the extent to which specific content is fairly presented in light of available evidence.⁶

The cancellation of the KPBS television program *Full Focus* calls into question whether KPBS, as a member station of PBS, is adhering to the Editorial Standards and Policies that PBS has put into place. Cancellation of the program effectively eliminates presentation of a "variety of viewpoints" and prevents a balanced view of local issues from being aired.

II. CANCELLATION OF *FULL FOCUS*

As stated above, on 1 August 2007 KPBS cancelled the news and public affairs program *Full Focus*. According to the Mission Statement for *Full Focus* on the KPBS

³ The top twenty underwriters for KPBS during 2006 are listed on the attached Exhibit 2.

⁴ http://www.pbs.org/aboutpbs/aboutpbs_corp.html

⁵ See a copy of the PBS "Editorial Standards and Policies" at Exhibit 3.

⁶ See Exhibit 3 or the PBS link: http://www.pbs.org/aboutpbs/aboutpbs_standards.html

website, the program, which aired five days a week, explored issues with “newsmakers, community leaders and others with important views,” and contributed “to the public dialogue, inform[ed] the community’s agenda, and offer[ed] solutions to problems.”⁷ The program originally aired in April 2000. In a press release dated 1 August 2007, Doug Myrland, KPBS General Manager, stated “the new fiscal year forced KPBS management to closely examine each program and project within the KPBS organization. It’s important that we spend our financial resources wisely and while both activities⁸ had elements of success in the past, trends indicate their future potential for audience and revenue growth is minimal.”⁹

A memorandum dated 28 August 2007 from Doug Myrland to Dianne Lovell, Director of Human Resources and Legal Affairs for the San Diego State University Research Foundation, explained the *Full Focus* cancellation this way: “Despite five years of investment and hundreds of broadcasts, [*Full Focus*] has failed to attract even a minimally acceptable audience and only one outside funding source which covered just 15% of the program’s expenses. While producing local television programs is a fundamental part of our mission, after five years of marginal performance it is obvious that we need to reassess and find other program offerings. While the program is on daily, resulting in many hours produced each year, the cost for those hours of programming (when measured along with the small audience) made the cost per viewer reached very high compared to other programs on KPBS-TV.”¹⁰

⁷ See http://www.kpbs.org/tv/full_focus/about

⁸ The other program cancelled was *A Way With Words*.

⁹ See Exhibit 4, 1 August 2007 KPBS press release.

¹⁰ See Exhibit 5, 28 August 2007 memorandum from Doug Myrland to Dianne Lovell, Director of Human Resources and Legal Affairs for the San Diego State University Research Foundation.

Before sending his 28 August 2007 memorandum, Doug Myrland commented, on 3 August 2007, on the cancellation of *Full Focus*. On the KPBS “Off Mic” webpage, in response to an article written by Gloria Penner, former *Full Focus* host, titled “Goodbye *Full Focus*-- We’re Sorry to See You Go,” Myrland wrote: “This process [of canceling *Full Focus*] doesn’t need to be ‘transparent.’ We aren’t elected officials—every budget line item and every personnel decision and every bit of information we collect is not everybody else’s business. Just because you give a contribution or pay taxes doesn’t give you the right to decide—or even influence—what goes on the air and what doesn’t.”¹¹

Although the Office of the City Attorney made a public records request asking for information to validate Mr. Myrland’s explanation for the cancellation of *Full Focus*, as of the date of this report, KPBS has not provided such documents. The San Diego City Attorney’s Office will provide any additional information received from KPBS to the public in later reports.

III. EDITORS ROUNDTABLE TELEVISION BROADCASTS

After the cancellation of *Full Focus*, the sole remaining KPBS program that features local public issues is *Editors Roundtable*. However, *Editors Roundtable* is only broadcast once a week. *Editors Roundtable* is a commentary program not subject to the same requirements of balance and diversity as *Full Focus*. It is broadcast on KPBS radio and not on KPBS-TV. However, the radio program is videotaped and, through an agreement with Cox Communications, select programs are broadcast on cable television Channel 4. According to a 12 July 2006 e-mail from KPBS Producer/Program

¹¹ See <http://www.kpbs.org/blogs/offmic/?p=28&cp=4#comments>

Coordinator Carla Conner to Deborah Davis-Gillespie, Programming Manager for Channel 4 San Diego, KPBS has “not had a written agreement [with Cox] in several years.”¹²

The *Editors Roundtable* programs broadcast on Channel 4 are, for the most part, limited to appearances by guest media commentators Bob Kittle, editorial page editor of the *San Diego Union-Tribune*; John Warren, editor and publisher of *San Diego Voice & Viewpoint*; and Tim McClain, editor of *San Diego Metropolitan Magazine*.¹³ Those three individuals appear, for the most part, every other week on the radio version of *Editors Roundtable*.¹⁴ The weeks that Kittle, Warren and McClain do not appear on the program, representatives of San Diego publications other than the *San Diego Union-Tribune* frequently appear.

Recent e-mail and older correspondence and media reports indicate that, at various times, there have been suggestions by KPBS staff members that all of the individuals who appear on the *Editors Roundtable* radio program should also appear on the television program. However, Bob Kittle has vigorously protested televising another editor who does not appear regularly on *Editors Roundtable* with himself, John Warren, or Tim McClain. Dave Rolland, the Editor of *San Diego Citybeat*, described in a 2003 editorial how Kittle opposed Rolland’s inclusion on television broadcasts of *Editors Roundtable*.¹⁵ Kittle sent a letter to Pam Hardy, a producer at the KPBS program *These*

¹² 12 July 2006 e-mail correspondence from Carla Conner to Deborah Davis-Gillespie. See Exhibit 6.

¹³ See Exhibit 7 which contains a list of guests scheduled to appear on the televised version of *Editors Roundtable* during 2007. Bob Kittle, John Warren and Tim McClain are the only guests scheduled to appear on the televised broadcasts.

¹⁴ See http://www.kpbs.org/radio/editors_roundtable which lists guests on *Editors Roundtable* for 2007 and part of 2006.

¹⁵ See <http://sdcitybeat.com/article.php?id=999>

Days, with copies to KPBS general manager Doug Myrland, Gloria Penner, media relations manager Judith Morgan Jennings, Dan Novak, vice president of programming at Cox Communications, and San Diego State University President Stephen Weber, stating "I want you to know that I emphatically do not approve of having CityBeat on the [Editors Roundtable] program."¹⁶

The decision to exclude certain editors from the televised version of *Editors Roundtable* was raised again in a series of KPBS e-mails in 2006. In an e-mail dated 6 March 2006 from Hank Crook, Producer of the KPBS program *These Days*, to Carla Conner, a KPBS Producer and Project Coordinator, Crook, focused on *Editors Roundtable* and stated:

While we really like having the 'regulars,' we think that having 'alternative' editors like Dave Rolland, Ruben Navarette Jr., Kent Davy, Tony Perry, Scott Lewis, Andrew Donohue, Alisa Joyce Barba, Michael Smolens, and JW August are important contributors to the show and shouldn't be viewed as less important than the 'regulars.' We also think it is important to have the other editors on the show because they express different views from the regular group. Also, many of the people I just listed have become more well known and possibly more respected over the last few years at least in part because of their participation on this show.

We just want to make sure that the 'alternate' editors aren't being left out on purpose. We would like to encourage Cox to think about including the 'alternate' editors in a few more of the TV tapings. We think it would be a mistake to only feature the 'regular' editors on TV because we would only be giving the viewers half of this great show.¹⁷

Ana Tintocalis, also a producer for *These Days*, responded in an e-mail dated 7 March 2007:

¹⁶ See <http://www.sdcitybeat.com/article.php?id=995>

¹⁷ 7 March 2006 e-mail correspondence from Hank Crook to Carla Conner, with cc to: Gloria Penner, Sarah Rothenfluch, Ana Tintocalis and Doug Myrland. See Exhibit 8.

[T]he Editors-TV audience has certainly grown since we've been using a variety of editors on the show. And this is because these new editors bring different perspectives and analyses. Many viewers enjoy watching the alternative editors. It would be detrimental to the show if Tim, Bob and John were the only editors featured on the televised program.¹⁸

The same day, Gloria Penner, the host of *Editors Roundtable*, replied in an e-mail to Ana Tintocalis, Hank Crook, and Carla Conner. She wrote:

[W]hen I asked Hank to review the schedule because I sensed that an every-other-week TV schedule would feature one group of editors over the other, I was thinking about providing the best and most diverse service to Cox viewers. At the time I made the request, I didn't know which group would get to be the 'TV group.' It is possible that the schedule is based on considerations other than who sits at the table. And, after all, the KPBS audience gets to hear all editors. So once we alert Cox to the limitations of an alternate week schedule, I think we should step back, leave it to them, and not request any explanation of their motivation.¹⁹

Doug Myrland was interviewed about the cancellation of *Full Focus* during a 12 September 2007 interview with Nicole Lozare for the KPBS Off Mic blog. When asked why *Full Focus* was cancelled, Myrland responded, "[B]ecause we wanted to take the resources that we were putting towards *Full Focus* and put those resources toward activities in the station that we considered to be more successful or more potentially successful."²⁰ He did not address the loss of objectivity and balance that cancellation of *Full Focus* would cause.

¹⁸ 7 March 2006 e-mail correspondence from Ana Tintocalis to Hank Crook and Carla Conner, with cc to: Gloria Penner, Sarah Rothenfluch, and Doug Myrland. See Exhibit 9.

¹⁹ 7 March 2006 e-mail correspondence from Gloria Penner to Ana Tintocalis, Hank Crook and Carla Conner. Carbon copied to: Sarah Rothenfluch and Doug Myrland. See Exhibit 10.

²⁰ Transcript of 12 September 2007 interview of Doug Myrland by Nicole Lozare for the KPBS Off Mic blog. See Exhibit 11. The audio version of the interview is available at the KPBS website: <http://www.kpbs.org/blogs/offmic/2007/09/12/kpbs-general-manager-on-aguirre-inquiries/>

IV. OBJECTIVITY AND BALANCE UNDER FEDERAL LAW

“Objectivity” and “balance” in programming are not only PBS policies. The Corporation for Public Broadcasting (“CPB”) is statutorily directed to support those objectives. The U.S. Congress established the CPB through the Public Broadcasting Corporation Act of 1967 (the “1967 Act”).²¹ The 1967 Act amended the 1934 Communications Act (the “1934 Act”). It provided for creation of a nonprofit corporation under the laws of the District of Columbia; the corporation would provide grants to public television and radio stations.

When the U.S. Congress passed The Public Telecommunications Act of 1992 (“1992 Act”), it directed the CPB to “facilitate the full development of public telecommunications in which programs of high quality, diversity, creativity, excellence, and innovation, which are obtained from diverse sources, will be made available to public telecommunications entities, with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature.”²²

Pursuant to Section 19 of the 1992 Act, the CPB is to “provide reasonable opportunity for members of the public to present comments to the [CPB] Board regarding the...diversity, objectivity, and balance of public broadcasting services” and “review, on a regular basis, national public broadcasting programming for...diversity...objectivity, and balance....”²³

²¹ The Public Broadcasting Act of 1967 is codified at 47 U.S.C. Section 396.

²² 47 U.S.C. Section 396(g)(1)(A).

²³ Pub. L. 102-356

The 1934 Act and the policies of the CPB make it clear that “diversity,” “objectivity,” and “balance” all are important goals of the CPB. Although the CPB does not have direct oversight authority over public television stations such as KPBS, it has the ability to reject grant requests if its standards are not followed. Even if *Editors Roundtable* did not receive grant money from the CPB during 2006 or 2007, any attempts to apply for grants for the program could be questioned if the show did not satisfy the requirements of balance and objectivity that the CPB requires. Cancellation of *Full Focus* eliminated KPBS’ broadcast of diverse community voices and removed a valuable resource that enabled the station to maintain balance and objectivity.

V. CONCLUSION

When KPBS-TV cancelled *Full Focus*, it abrogated its obligation as a PBS member station to maintain “objectivity” and “balance” in its public affairs programming. The television station lost its only public affairs program that focuses on local events. Removal of five days a week of objective, balanced programming highlighted the problem with allowing a guest media commentator to dictate which *Editors Roundtable* guests would appear on television, which is a violation of the PBS Public Broadcasting Service Editorial Standards and Policies: “Primary responsibility for content necessarily rests with the producer because it is the producer who creates the content and is uniquely in a position to control of its elements.” Even prior to cancellation of *Full Focus*, KPBS’ tacit acquiescence to the media commentator’s demands to name the guests to appear on television allowed one member of the media to control one-sixth of the televised public affairs programming that was produced by KPBS. After cancellation of *Full Focus*, the guest media commentator appears to control 100% of the televised public affairs

programming produced by KPBS. The lack of balance and objectivity in KPBS-produced programming clearly contravenes PBS Editorial Standards and Policies. The City Attorney's Office is continuing its review and will report any additional material information discovered.

EXHIBIT 14

Safeguarding Your Home From Wildfire

Jun 06, 2007

Rebecca Tolin

We're hearing this could be one of the worst fire seasons in a century. Drought and a winter frost have turned trees and brush into kindling. But after the devastating 2003 fire storms, you might assume San Diegans are better prepared, right? Rebecca Tolin is here with a surprising answer.

The city did pass some strict building codes after the Cedar Fire. But experts say even improved buildings will burn if they're in the middle of dry brush. That's what we have this year: lots of fire-prone vegetation and surprisingly few city workers to thin it. Some say unless quick action is taken, we're setting ourselves up for a massive fire storm.

Jeff Johnson's got the tools.

Johnson: Oh, God, without those you'd be dead...

His backyard is the battlefield. And flames, the enemy to be avoided. The Cedar Fire came close to his Tierrasanta home in 2003.

Johnson: Startling. We knew we have a danger here. I just didn't anticipate it being that severe.

But even that burning memory -- and chiding from his firefighter son-in-law -- wasn't enough to spur the Johnsons into action.

Mark Castiglione/SD Fire-Rescue Fire Prevention Inspector: You received a violation notice regarding brush as I can tell you've been working on. Did you complete the project?

Jeff Johnson: About 90 percent.

Mark Castiglione delivered the violation notice from the city of San Diego, threatening a fine and even jail, for failure to comply. The city requires one hundred feet of defensible space between any building and native brush.

Darlene Johnson: We do have a constant fear of fire -- always --and also when you get a notice that you will be fined I think that kind of gets your attention as well.

Jeff Johnson: Fear was rampant. When you read on there: '\$1,000 fine' -- then people started doing stuff, and we really cleared out the canyon.

To be fair: it wasn't just the Johnsons. Castiglione found overgrown brush on the whole canyon-rimmed block of Viacha Way. All that was stopping these residents from losing their homes, was time.

Mark Castiglione: We have native vegetation. It looks like it hasn't burned in at least 50 years. We have homes built on canyon rims. Fire does travel faster on rims, so this would be considered a high risk area.

Here's a satellite look at the area. The city calls it an urban-open space interface. It's where structures meet native vegetation, which means wildfire is always a threat. So consider the city has some 900 miles of canyon rims to manage. Guess how many fire prevention inspectors, like Mark Castiglione, do the job?

Sam Oates/SD Fire-Rescue Fire Marshall: We've got over 900 lineal miles of canyon rim in the city of San Diego, and presently I have two inspectors that are able to inspect that.

Two inspectors. Fire Marshal Sam Oates says that's not enough. Mainly, they have time to respond to complaints, neighbors with a blocked view kind of thing, but not serious fire prevention.

Oates used to have 11 fire inspectors in 1986, after the Normal Heights fire. But the numbers shrank with tight budgets. By 1990, there were 6 fire inspectors. They were all cut in 1991. And for the past 10 years, there have been two inspectors funded by the city's general fund. Oates always asks for more.

Oates: I'd like 11. Give me more. I mean, to do a comprehensive -- we're talking about brush. So when you clear brush this year -- in two years it will be back, and you're going to need to do it. This needs to be sustained.

Jerry Sanders, San Diego Mayor: Right now what we're doing is balancing a lot of priorities in the city. And we have to balance between police officers and firefighters and brush management and parks and libraries. We think we got a program that works.

And so it seems fire prevention has another foe: the beleaguered city budget. Keep in mind, so far we've been talking about private property, and where it meets public land. But there's another matter: all the city-owned land, all 24,000 acres of open space. But even if homeowners clear their lots, they still live next to city-owned land.

The city, according to its own code, is supposed to clear about 590 acres of brush every year. But this year there's only enough funding for about 80 acres, and that leaves a lot of dry, fire-prone brush.

William Johnson/California Conservation Corps: I've been doing this for 10 years now, and this is some of the driest brush I've ever seen.

William Johnson calls it a tinder box, ready to burn. His crew, the California Conservation Corps, is clearing a 100-foot fire break on this city land in Rancho Penasquitos. Thinning dense chaparral is grueling. It will take a whole month for this 12-person crew to cover a mere 10 acres. But Johnson says its work that vital for the safety of homeowners.

William Johnson: It's extremely important because as everyone knows from the Cedar fires and Paradise fires, brush reduction around the houses is most important. That's one of the reasons why we had such devastation that we had before.

And yet, city funding for brush abatement hasn't increased since the 2003 fire storms. This work falls under the Parks and Recreation department. But like San Diego Fire-Rescue it's woefully under funded.

Remember those 590 acres that need thinning each year? Right now three employees and this outsourced crew can complete 80 acres this year. It would take an extra 30 employees for the city to thin all the brush, according to its own requirements. That would cost an extra \$4.2 million, which the mayor says isn't there.

So there's just no more in the city budget?

Sanders: You know the city has been in some problems for quite some time and we're trying to make ends meet by using voluntary compliance, by using every way we can get to do it, including applying for grants, which is the only way we can get this done.

The city is applying for federal grant dollars to deal with the overgrown brush, but so far, there's no guarantee.

Johnson: It's always a struggle. All the agencies that use our services, they have a problem getting the money. And I mean we're not the most expensive one in town either. We pay our people minimum wage.

And that takes us back to where we began, homeowner Jeff Johnson.

Johnson: It's pretty strenuous. There are funner things in life than breaking your backbone up the hill.

With little government money, the brush burden is increasingly falling on residents.

Johnson: Should do this throughout the whole year, constantly keep the vegetation back, but like a lot of my neighbors, you forget about it.

Until, that is, an inspector knocks on your door. Fire Marshall Oates would like an inspector at every door. He'd like to map out the city and target the thickest brush. But given his budget, he can only issue words of warning.

Oates: It's kind of like what is it going to take for people to wake up and take care. That's their property. That's their home. That's their livelihood, and we can only do so much.

Jeff Johnson admits he may forget the firestorm his home escaped, but not the back-breaking work it takes to dodge the next one.

As the mayor alluded to, the city applied for a \$3.15 million grant from FEMA, back in 2005. It's in the final stages now, and the city hopes to find out if it's approved in the next six months. If so, the money would go to Parks and Rec for brush management on city land. Either way, private land owners are pretty much on their own.

After the mayor submitted his 2008 budget to the city council, several members including Donna Frye requested additional staffing for brush management. And this morning, the budget committee recommended the council add two employees to Parks and Rec, and two more to fire-rescue for brush abatement. We'll know more within the next week whether the council approves an increase and submits it back to the mayor.

The city really is a microcosm of the county in some ways. An alliance of fire management agencies in San Diego County got \$50 million in federal grant money after the 2003 fires. They used it mainly to clear evacuation routes of dead trees. But that money is almost gone which means agencies can't finish thinning public lands, like the Cleveland National Forest and Palomar Mountain State Park.

By some estimates, 80 percent of those forests are dead and dying, due to drought and the bark beetle infestation. So again government funds are drying up and property owners are being called to take a bigger role.

Tomorrow night we look at how residents in Scripps Ranch formed the first urban fire safe council in the state. With grant money and

homeowner donations, they've hired their own crews to create defensible space. After losing 312 homes in the Cedar Fire, they're very proactive. And in many cases, they're getting permits to do brush thinning on city property. It may not be their land but it is their home in jeopardy.